



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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September 24, 1997  
AO-97-19

Dr. Carl DiGregorio  
8 Princess Pine Lane  
Milford, MA 01757

Re: Establishment of Louis Bertonazzi Foundation

Dear Dr. DiGregorio:

This letter is in response to your August 7, 1997 request for an advisory opinion.

You have stated that the Committee to Elect Louis P. Bertonazzi (Committee) wishes to use a portion of its current balance to establish the Louis Bertonazzi Foundation (Foundation). The Foundation would provide annual awards to teachers and high school students in Milford. The awards would recognize excellence in teaching and achievement in Italian language study and would be made annually as a prestigious designation of merit in the candidate's name. Additional Foundation activity might include annual citizenship awards in the candidate's name to qualified area residents.

Although the details of the award process have not been fully worked out, the process would be structured to assure that awards would be made by an independent selection committee, and neither the candidate, his family members, Committee officials or their family members would participate in the final<sup>1</sup> award selection decision or be eligible for any such awards.

The Foundation would be established as a separate non-profit corporation. Although you anticipate that the Committee will be the Foundation's sole source of funds, the Committee will not conduct fund raising events specifically for the Foundation.

### Questions

- (1) May campaign funds be used to establish the Foundation?
- (2) May the Committee make contributions to the Foundation on an annual basis to allow the Foundation to make awards in the future?

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<sup>1</sup> In your letter you state that the candidate, committee officials and their family members will not participate "in the final award selection." I assume that they will also not participate in preliminary efforts to determine award recipients.

### Answers

Yes, for both questions, if consistent with the regulations discussed below.

### Discussion

M.G.L. c. 55, s. 6 provides, in part, that political committees such as yours:

may receive, pay and expend money or other things of value for the enhancement of the political future of the candidate . . . , for which the committee was organized so long as such expenditure is not primarily for the candidate's or any other person's personal use, provided, however, that the director shall establish reasonable rules and regulations concerning such expenditures . . . [emphasis added].

Expenditures designed to enhance a candidate's political future, in addition to not being for "personal use," must also bear a reasonable connection to the candidate's nomination or election to office. See M.G.L. c. 55, s. 1 and AO-94-20. Pursuant to M.G.L. c. 55, ss. 3 and 6, the office has issued regulations and advisory opinions to further define expenditures which may be made by political committees.

A political committee may make charitable contributions only if the following requirements, as set forth in 970 C.M.R. 2.06(3)(a), are met:

1. The contribution is made to a charitable, religious, or non-profit entity subject to either M.G.L. c. 12, section 8(f), M.G.L. c. 67 or M.G.L. c. 180, i.e., if a charitable foundation, it must be registered with the Attorney General's Division of Public Charities.
2. Neither the candidate, treasurer nor any other officer of the committee may be a trustee, officer, principal or beneficiary or involved in any manner in the operations of the entity to which the contribution is made.
3. Neither the candidate, treasurer nor any other officer of the committee may be related by consanguinity or affinity to any trustee, officer, principal or beneficiary of said entity.
4. It is [or will become] the usual and customary practice of the political committee to make such charitable contributions.
5. The political committee will receive publicity and foster political goodwill as a result of making the contribution.

Contributions consistent with the statute and regulations may be made to charitable trusts. See AO-83-14. In addition, political committees may make annual scholarship awards. See AO-89-13,

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AO-89-19 and AO-90-13. Similarly, candidate committees may make the initial contribution from campaign funds to start a new scholarship fund. See AO-94-20.

For the reasons discussed above, the use of campaign funds to make start-up and annual contributions to the Foundation would enhance the political future of the candidate and be consistent with section 6 and 970 CMR 2.06(a).<sup>2</sup>

The Foundation should register with the Attorney General's Public Charities Division and file annual reports with that office, listing contributions received from the Committee. See M.G.L. c. 12, ss. 8E and 8F and M.G.L. c. 68, s. 20.

I assume that you may consider seeking elected public office in the future. Should you at some point decide to dissolve your political committee, residual funds remaining in the Committee's account must be donated to a charitable or other entity in accordance with the 15<sup>th</sup> paragraph of M.G.L. c. 55, s. 18 (the "residual funds clause"). See AO-95-02 (residual funds may be donated to a charitable trust named in honor of the candidate, if none of trustees or beneficiaries are related to the candidate or officers of the candidate's committee). Assuming it registers as a public charity, residual funds could be contributed to the Foundation.

Please contact us if you have further questions regarding the campaign finance law.

Sincerely,



Michael J. Sullivan  
Director

Enclosure (AO-97-18)

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<sup>2</sup> The office has overruled its previous conclusion that charitable contributions must be an "incidental" part, i.e., ten percent, of a political committee's annual expenditures. See AO-97-18, a copy of which is enclosed, for information.